



CONTRACT LAW DIVISION

Office of Assistant General Counsel for Finance and Litigation



Biweekly Report—Period Ending May 08, 1999

Arthur E. Lees v. DoC—GAO Nos. B-282281.1; B-281954.1, B-281954.2; B-281954.3

GAO has dismissed one of the protests filed by Arthur E. Lees, an applicant for a Commercial Representative position with the U.S. Foreign Commercial Service in Chengdu, P.R.C. GAO holds that the protestor was not an interested party to complain about the lack of a CBD synopsis as he received the position vacancy announcement and competed for the position. Furthermore, he was not prejudiced by the agency's failure to synopsise the requirement. GAO has stated that it will separately rule on the other protest bases at a later time. (Lisa J. Obayashi)

GWAC/IT/OAM

Changes made to Business Case for GWAC authority to comply with *Adarand* guidance. Continuing discussions with OFPP regarding *Adarand* compliance. Expect GWAC authority decision soon. (Terry H. Lee).

Boulder FSL Supercomputer

An amendment to the solicitation stating that proposals at the \$15 million funding level would be evaluated as significantly more important than those at the \$19 million level has prompted vendor requests for additional time. Because the amendment has not changed the fundamental requirement to submit proposals at both funding levels, the requests are being denied. It is possible that this will lead to a protes. (Mark Langstein)

CLDP/Government of Egypt Program

The GOE Procurement Program concluded its second chapter on Friday, April 30. The program went extremely well, with CLD and OAM participants receiving great praise for their presentations. Counsel intends to follow up with CLDP on GOE's purported bid protest procedures. (Terry Lee)

Patent Examiners Technical Support Project Team

PTO has "kicked-off" its latest project, a multimillion dollar support services procurement. The Team is presently drafting the Project Agreement which will use the CONOPS/ReMap process to meet this requirement. (Lisa J. Obayashi)

Agency Protests-Level Above Contracting Officer

The CAR has been amended to include final rules on agency protests. Amending 48 CFR Part 1333 the regulation was published on April 6, 1999 at 64 FR 16651. The final rule was effective on May 6, 1999. (Edward Weber and Jerry Walz)

Meir Dubinsky v. US, No. 98-884C, March 31, 1999.

In a 70 page opinion, Judge Bruggink overturns an Air Force Academy award, purportedly done under FAR Part 13, Simplified Acquisition Procedures, and the "test program" allowing acquisitions of commercial items up to \$5,000,000. Judge Bruggink "holds that the procurement was not conducted as a simplified acquisition. As an alternative holding, assuming arguendo that it was, the Academy improperly failed to notify offerors to that effect." Case discusses FAR Part 15 violations, notice for Part 13 acquisitions and other issues. B&P costs were also granted to the pro se plaintiff.

CLD "Time to Complete"—3.7 Days

Actions by Contract Law Division during Period		
	From 4/25/99	To 5/8/99
Bureau	Received	Completed
CLDP	1	0
NIST	4	5
NOAA	10	11
O/S	2	1
PTO	1	1
Total	18	18

